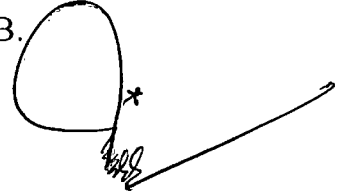


15.07.2022

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Implementation report not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission of implementation report. Adjourned. To come up for implementation report on 12.08.2022 before S.B.

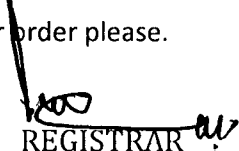




(MIAN MUHAMMAD)  
MEMBER(E)

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. \_\_\_\_\_ 138/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	09.03.2022	<p>The execution petition of Mr. Banaras Khan submitted today by Mr. Qamar Nadeem Afridi Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before to Single Bench at Peshawar on <u>19-05-2022</u>. Original file be requisite. Notices to the appellant and his counsel be also issued for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
	19.05.2022	<p>Learned counsel for petitioner present.</p> <p>Notice of the present execution petition be issued to the respondents for submission of implementation report. To come up for implementation report on 15.07.2022 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member (E)</p>

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA, PESHAWAR**

Cr.Misc Application No. 138 /2022

For Contempt of Court

In Service Appeal No. 6270/2020

Banaras Khan .....PETITIONER

**V E R S U S**

D.P.O. (POLICE) SHANGLA  
and others .....RESPONDENTS

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Contempt of Court Petition	*	1-4
2.	Affidavit	*	5
3.	Addresses of Parties	*	6
4.	Copy of judgment dated 24/11/2021	A	7-11
5.	Wakalat Nama	*	12

Through

Petitioner



**Qamar Nadeem Afridi**  
Advocate, High Court,  
Peshawar

Date: 04/03/2022

P

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA, PESHAWAR**

Cr.Misc Application No. 138 /2022

For Contempt of Court

In Service Appeal No. 6270/2020



Banaras Khan S/o Sher Din R/o Tapa Daulat Khel,  
Kandy Janda Khel, Malik Din Khel, Nala Tehsil Bara  
District Khyber .....**PETITIONER**

**V E R S U S**

1. District Police Officer, Shangla, Head Office at Alpuri.
2. Deputy Inspector General of Police, Malakand Division, Head Office at Saidu Sharif Swat.
3. Inspector General of Police, Khyaber Pakhtunkhwa, CPO, Peshawar.

.....**RESPONDENTS**

**APPLICATION FOR IMPLEMENTATION**  
**OF JUDGMENT DATED 24/11/2021 IN**  
**SERVICE APPEAL NO. 6270/2020**  
**PASSED BY THIS HONOURABLE**  
**TRIBUNAL.**

---

2

**Respectfully Sheweth:**

That the petitioner/appellant humbly submits as under;

1. That above noted Service Appeal was filed by the petitioner before this Hon'ble Tribunal, which was allowed/ accepted by the Hon'ble Tribunal vide its judgment dated 24/11/2021 and the petitioner/appellant was re-instated on service with all back benefits. **(Copy of judgment dated 24/11/2021 is Annexure "A")**.
2. That certified copy of judgment was conveyed to the respondents for compliance by the petitioner/appellant, but they did not implement the judgment of the Honourable Tribunal till today and hence this petition, inter alia, on the following grounds:

**GROUND S:**


- A. That non-compliance of the aforesaid judgment dated 24/11/2021 of the Honourable Court by the respondents is illegal, without lawful authority, without jurisdiction, malafide and void ab-initio.

- B. That the petitioner approached the Respondents for the implementation of said judgment of this Hon'ble Court but they turn deaf years.
- C. That thereafter the petitioner time and again approached the Respondents for the implementation of the judgment of this Hon'ble Court but in vain.
- D. That by not honouring the judgment of this Hon'ble Court the Respondents has intentionally/ wilfully and deliberately made contempt of this Hon'ble Tribunal.
- E. That every government functionary is under legal obligation to honour the judgment of the Court of competent jurisdiction, the respondents by not complying with the judgment, have not performed their duty in accordance with law.
- F. That non-compliance of the order of the Honourable Tribunal, speaks malafide on the part of respondents and to lower the position of the judiciary in the eye of public at large.
- G. That from the facts and grounds taken the said writ petition, it has become crystal clear that the respondents have committed contempt of court.

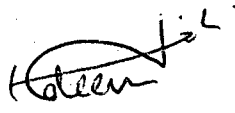
4

H. That any other grounds will be raised at the time of arguments with prior permission of this Hon'ble Court.

**It is, therefore, most humbly prayed that on acceptance of this application, the contempt of court proceedings may please be initiated against the Respondents, they be summoned, proceeded against and be punished in accordance with law.**

  
Through

Petitioner



**Qamar Nadeem Afridi**  
Advocate, High Court,  
Peshawar

Date: 04/03/2022

15

(5)

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA, PESHAWAR**

Cr.Misc Application No. \_\_\_\_\_/2022

For Contempt of Court

In Service Appeal No. 6270/2020

Banaras Khan ..... **PETITIONER**

**V E R S U S**

Muhammad Imran and others ..... **RESPONDENTS**

**AFFIDAVIT**

I, **Banaras Khan S/o Sher Din R/o Tapa Daulat  
Khel, Kandy Janda Khel, Malik Din Khel, Nala Tehsil  
Bara District Khyber**, do hereby solemnly affirm and  
declare on oath that the contents of this accompanying  
**Application** are true and correct to the best of my  
knowledge and belief and nothing has been concealed  
from this Hon'ble Court.

Identified by

B.A.S

**DEPONENT**

Qamar Nadeem Afridi

**Qamar Nadeem Afridi**  
Advocate, High Court,  
Peshawar

2/201-0585340-7





16

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR**

Cr.Misc Application No. \_\_\_\_\_/2022

For Contempt of Court

In Service Appeal No. 6270/2020

Banaras Khan .....**PETITIONER**

**V E R S U S**

Muhammad Imran and others .....**RESPONDENTS**


**ADDRESSES OF PARTIES**

**PETITIONER:**

Banaras Khan S/o Sher Din R/o Tapa Daulat Khel,  
Kandy Janda Khel, Malik Din Khel, Nala Tehsil Bara  
District Khyber

**RESPONDENTS**

1. Muhammad Imran, District Police Officer, Shangla,  
Head Office at Alpuri.
2. Zeeshan Asghar, Deputy Inspector General of  
Police, Malakand Division, Head Office at Saidu  
Sharif Swat.
3. Moazzam Jah Ansari, Inspector General of Police,  
Khyaber Pakhtunkhwa, CPO, Peshawar.

  
Through

Petitioner



**Qamar Nadeem Afridi**  
Advocate, High Court,  
Peshawar

Date: 04/03/2022

P-①

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,  
PESHAWAR

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No 6270/2020

Diary No 5028

Dated 11/6/2020

Banaras Khan S/O Sher Din R/O Tapa Daulat Khel, Kandy Janda  
Khel, Malik Din Khel, Nala Tehsil Bara District  
Khyber..... (Appellant)

VERSUS

1. Superintendent of Police (D.P.O), Shangla, Head Office,  
Alpuri
2. Deputy Inspector General of Police, Malakand Division, Head  
Office, Saidu Sharif, Swat
3. Inspector General of Police, Khyber Pakhtunkhwa,  
Peshawar..... (Respondents)

NA  
**Filed to-day**  
*11/6/20*  
**Registrar**

Appeal under Section 4 of Khyber Pakhtunkhwa  
Service Tribunal Act, 1974 against the order dated  
20-02-2020, whereby departmental appeal  
against the order dated 10-12-2019 dismissing  
the Appellant from service was rejected / filed

Respectfully Sheweth:

Re-submitted to -day  
and filed.

The Appellant humbly submits as under:-

That the Appellant was appointed on dated 02-02-2009 as  
Head Constable in police department, Shangla. (Copy of  
the service card is attached Annex 'A').

2) That since his appointment till the date of his dismissal of  
Appellant from service, the Appellant performed his duty

**Registrar**  
*25/6/20*

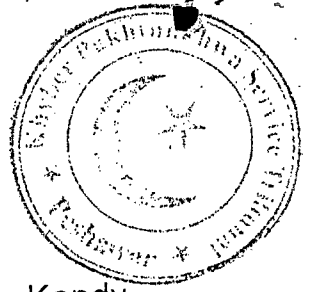
**ATTACHED**

2)  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 6270/2020

Date of Institution ... 11.06.2020  
Date of Decision ... 24.11.2021



Banaras Khan S/O Sher Din R/O Tapa Daulat Khel, Kandy  
Janda Khel, Malik Din Khel, Nala Tehsil Bara, District Khyber.  
(Appellant)

**VERSUS**

Superintendent of Police (D.P.O) Shangla, Head Office, Alpuri  
and two others.

(Respondents)

Qamar Nadeem Afridi,  
Advocate

For appellant.

Muhammad Riaz Khan Paindakhel,  
Assistant Advocate General

For respondents.

Rozina Rehman  
Atiq ur Rehman Wazir


Member (J)  
Member (E)

**JUDGMENT**

Rozina Rehman, Member(J): Brief facts of the case are that appellant was appointed as Head Constable. He was implicated in a criminal case vide F.I.R No.379 and was arrested. Consequently, he was issued charge sheet and was finally awarded major penalty of dismissal from service. He filed departmental appeal which was also dismissed, hence, the instant service appeal.

2. We have heard Qamar Nadeem Afridi Advocate learned counsel for appellant and Kabir U'lah Khattak, learned Additional

**ATTESTED**

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

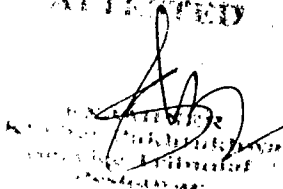
Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Qamar Nadeem Afridi Advocate, learned counsel for appellant submitted that mandatory provisions of law and rules were blatantly violated by the respondents as appellant was not treated according to law. He argued that no proper inquiry was conducted to find out the real facts and that the appellant was not associated with the inquiry proceedings. He contended that he was acquitted of the charges leveled against him vide F.I.R No.379 and that the prosecution itself had submitted an application U/S 494 Cr.PC as there was no probability of the appellant/accused being convicted of any offence. It was lastly submitted that the appellant has more than 11 years of service at his credit, therefore, he may kindly be reinstated with all back benefits.

4. Conversely, learned A.A.G submitted that appellant absented himself from duty as he was involved in smuggling of narcotics and was caught red-handed for having 910 gram of Charas. He submitted that acquittal from criminal charges does not exonerate the appellant from departmental proceedings and that he was called in Orderly Room and was heard in person. He was given ample opportunity to defend himself but he failed, therefore, his appeal was also rejected by R.P.O.

5. From the record it is evident that Constable Banaras Khan of Shangla District Police was proceeded against departmentally on the allegations of his involvement in case F.I.R No.379 dated 26.10.2019 registered at Police Station Besham U/S-9(b) of C.N.S.A. He was charge sheeted and Naseeb Shah D.S.P Headquarter, Shangla was

ATTACHED



nominated as Inquiry Officer. In the meanwhile, Challan in the criminal case was submitted against him in the Court and he was tried. An application U/S-494 Cr.PC was submitted before the learned Magistrate seeking withdrawal from prosecution and vide order dated 11.02.2020 of the learned Sessions Judge/JSC, MCTC Shangla, the present appellant was acquitted from the charges leveled against him. He was dismissed from service vide order dated 10.12.2019 of District Police Officer, Shangla. He filed departmental appeal on 20.12.2019. He was acquitted of the charges leveled against him on 11.02.2020 and despite his acquittal, his departmental appeal was rejected by R.P.O Malakand Region on 20.02.2020.

6. It has been held by the Apex Court that all acquittals are certainly honorable. There can be no acquittal, which may be said to be dishonorable. Implication of the appellant in the criminal case of narcotics was the only ground on which he had been dismissed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue with his service.

7. It is established from the record that charges of involvement in the criminal case ultimately culminated in honorable acquittal of appellant by the competent Court of Law in the above-mentioned criminal case. In this respect, we have sought guidance from 1988 P.L.C (C.S) 179; 2003 S.C.M.R 215 and P.L.D 2010 Supreme Court 695.


TESTED

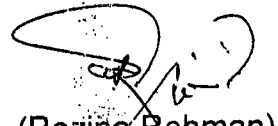
IN AMT/SR  
 Sd/- Mr. M. M. Khan  
 Service Tribunal  
 Islamabad


8. In view of the foregoing, the instant appeal is accepted and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED.

24.11.2021

  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

**Certified to be true copy**  
  
**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal**  
**Peshawar**

Date of Presentation of Application 07/12/2021  
Number of Writs 2000  
Copying fee 22/-  
Urgent 4/-  
Total 26/-  
Date of Issuance of Copy 07/12/2021  
Date of Receipt of Copy 07/12/2021  
Date of Delivery of Copy 07/12/2021

2021

50 روپے

114078



ایڈوکیٹ: QAMAR NADEEM AFRIDI

بار کونسل / ایسوسی ایشن نمبر: BC-10-7566

رابطہ نمبر: 03005968070

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: HON'BLE SERVICE TRIBUNAL - KPK - PESHAWAR

PETITIONER	مخانب:	C.O.C	دعوی:
 D.P.O. Shargal و عنبرہ			علت نمبر:
			مورخہ:
			جرم:
			تھانہ:

**باعث تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ  
آن مقام پشاور کیلئے محمد علی احمد پوری، شمس الرحمن ایڈووکیٹس، کو وکیل مقرر  
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
راضی نامہ کرنے و تقریر ثالث و فیصلہ برحلف دینے جو اب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
کاروائی کے واسطے اور وکیل یا مختار قانونی اوائسے ہمراہ مانگئے بجائے تقرر کا اختیار ہوگا اور صاحب  
مقرر شدہ کو وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور ان کا ساختہ پر داخلہ منظور و قبول ہوگا  
دوران مقدمہ میں جو خرچہ ہر جانب اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے  
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے  
المرقوم: 4/3/2022

بد \_\_\_\_\_ مقام

بد \_\_\_\_\_ کے لیے منظور ہے۔

دستخط: سناحی خان

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Qamar Nadeem Afridi  
Advocate - P.H.C

"A"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD,**  
**PESHAWAR.**

No.

Resd

138

APPEAL No..... of 20 <sup>22</sup>SB

Banaras Khan

Appellant/Petitioner

Versus

DPO Shangla Head office at Alpuri

RESPONDENT(S)

Notice to Appellant/Petitioner

Banaras Khan s/o Sher Din R/o

Tapa Daulat Khel, Kandy Janda Khel, Malik  
Din Khel, Nala Tehsil Bara District Khyber

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 19/05/2022 at 9:00

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

W. W.  
 Registrar,

Khyber Pakhtunkhwa Service Tribunal,  
 Peshawar.



"A"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

No.

APPEAL No..... of 20 .....

.....  
Appellant/Petitioner

Versus

.....  
RESPONDENT(S)

Notice to Appellant/Petitioner.....

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 13/07/2022 at.....

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

(for Implementation Report)

.....

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.